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November 16, 2021

The Honorable Norman K. Moon  
United States District Court  
Western District of Virginia  
255 West Main Street  
Charlottesville, VA 22902

**Re: Sines et al. v. Kessler et al., No. 3:17-cv-00072 (NKM) (JCH)  
Letter in Response to Plaintiffs Letter (ECF 1435)**

Dear Judge Moon:

I write this brief letter in response to Plaintiffs' letter, ECF 1435.

Richard Hamblin will be able to provide sufficient foundation for the video and audio evidence I will seek to introduce showing the incidents before and after the Deandre Harris attack. Plaintiffs have been on notice of my proposed exhibit since I used it as part of my Motion for Summary Judgment over 12 months ago. The exhibit was part of the exhibit list I filed in advance of trial. This is the first time that Plaintiffs have raised an objection to the video.

I do not intend to offer any evidence or make any argument that would suggest that the Deandre Harris attack was justified. As Plaintiffs acknowledge in their letter ECF 1435, they introduced evidence of the Deandre Harris assault as a purported example of a racially motivated attack. I am seeking to introduce the full video of Deandre Harris's interaction with protesters as evidence that the attack was not racially motivated. This is the main issue in this case. At no time will any witness offer an opinion on whether the Harris attack was justified or whether the attackers acted in self-defense. I do not plan to elicit any testimony about anything that happened in the five seconds before the attack or anything that happened during the attack.

The evidence in the video and audio exhibits that I will seek to introduce through Richard Hamblin shows that Deandre Harris and his associates followed a group of protesters from Emancipation Park to the Market Street garage. As they followed the group of protesters, Deandre Harris and his associates taunted and yelled at the protesters and attempted to provoke a physical altercation. Harris and his associates yelled, "Do something! Do something!" "Touch me!" Deandre Harris and his associates yelled other profanities. Harris and his associates bragged about stealing a club with a confederate flag from a protester. One of Harris's associates uses a stick as a baseball bat and winds up behind the protesters as they walk up the street.

Plaintiffs have already introduced the Deandre Harris incident without calling a witness who viewed every second of action captured in their video. The witness Plaintiffs used to gain admission of the video, Matthew Heimbach, did not actually view anything in the video. The basis for admission was that Heimbach “recognized that someone in the video was carrying a TWP shield.” When I objected to admission of the video on foundation grounds, the court overruled my objection. In addition, Michael Tubbs did not witness everything in the video because his back was to Deandre Harris for part of the attack. Plaintiffs foundation objections lack merit and are inconsistent with how video evidence has been admitted during this case.

I am simply seeking to introduce the full video to provide important context to the jury. Introduction of the video and audio from the video would be consistent with this court’s rulings on the foundation for introducing videos throughout this trial. This court has allowed helicopter footage to be introduced by Plaintiffs. This court allowed video of the back of Jeff Schoep’s head to be introduced through Schoep, despite the fact that Schoep could not have seen much of what was in the video. A witness does not need to have witnessed everything in a video for the proper foundation to be laid for its admission.

Very truly yours,



Bryan Jones

BJJ/mjh